IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13273 of 2005

Between:

B. Ramesh Singh, S/o Late B. Narayan Singh,
R/o 10-5-2/1/38, Near Chacha Nehru Park, Masab Tank, Hyderabad.

..... PETITIONER

AND

1 District Collector, Hyderabad District at Nampally, Hyderabad.
2 The Commissioner, Municipal Corporation of Hyderabad,
Opp: B.R.K.R. Bhavan, Tank Bund Road, Hyderabad.
3 Assistant Commissioner, Town Planning Section, Circle-IV, Khairthabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd and 3rd Respondents in refusing to receive the application for grant of permit for construction of house on property bearing house No. 10-5-2/1/38, near Chacha Nehru Park, Masab Tank, Hyderabad and insisting for No Objection Certificate from the1st respondent as condition-precedent for permit to construct as illegal, arbitrary, untenable and violative of Art. 14, 21 and 300-A of Constitution of India and consequently direct the 2nd and 3rd respondents to receive the application and grant permit for construction of house on property bearing house No. 10-5-2/1/38,near Chacha Nehru Park, Masab Tank, Hyderabad and pass such other order or orders as the Hon'ble Court deems fit and proper.

Counsel for the Petitioner:MR.A.RAVINDER REDDY

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for the Respondent Nos.2 & 3: MR. RAMA RAO GHANTA

The Court made the following :

ORDER:-

This writ petition is filed by the petitioner to declare the action of the respondents 2 and 3 in refusing to receive the application for grant of permit for construction of house and insisting for “No Objection” certificate from first respondent as condition precedent to permit for construction as illegal and arbitrary.

It is stated that the respondents are not receiving the application of the petitioner for grant of permit for construction of the house on the property bearing No.10-5-2/1/38, near Chacha Nehur Park, Masab Tank, Hyderabad and insisting for “No Obection” Certificate from first respondent as a condition precedent to permit for construction, which is illegal and arbitrary and violative of principles of natural justice.

Learned Government Pleader appearing on behalf of the respondents submitted that at the time of receiving the application, the Corporation has to verify the application as to whether it is in accordance with the bye-laws and if the application is not filed in accordance with the same, they are refusing to receive the same. Therefore, the respondent-corporation is returning the applications for complying the same in accordance with bye-laws. It is further submitted that as per bye-law 4 (2) of Municipal Corporation Building Bye-laws,1981, every application for building permission shall be accompanied by (a) attested copy of the original sale/lease deed; and (b) attested copy of the Revenue survey sheet/Municipal Survey Sheet with mutation record number, or (c) affidavit or other documents acceptable to the Commissioner, Municipal Corporation of Hyderabad as proof of ownership. Therefore, since the petitioner’s application is not accompanied by the above documents, it is not acceptable.

Considering the facts and circumstances, I deem it appropriate to direct the petitioner to submit the application as per bye-law 4 (2) of the Municipal Building Bye-laws, 1981 and after filing of the same, within four weeks, the respondent authorities shall consider the same and pass appropriate orders in accordance with law.

Accordingly, the writ petition is disposed of at the admission stage itself.

22--06—2005.

Stv/-

To

1 District Collector, Hyderabad District at Nampally, Hyderabad.
2 The Commissioner, Municipal Corporation of Hyderabad,
Opp: B.R.K.R. Bhavan, Tank Bund Road, Hyderabad.
3 Assistant Commissioner, Town Planning Section, Circle-IV, Khairthabad, Hyderabad.

4. Two ccs to G.P.for Revenue, High Court of A.P., Hyderabad (OUT)

5. Two C.D. Copies.